1948

File No. Hagga Prohibition II/48

Legal **DEPARTMENT**

B **BRANCH**

Subject.

Rules and Notifications under the Bombay Hagga Prohibition Act, 1839

P. 3

3td. Sectt. Slip 24 B e.

File No. Hagga Prohibition II/48

429-B

Submitted.

The question is whether the levy of one maund of acreage cess of paddy levied from khaterdars by the shiletridars in the Kolaba District can be prohibited by issue of a notification under sec. 1 of the Bombay Haqqa Prohibition Act, 1839.

2. Sec. 1 of the Bom. Haqqa Prohibition Act, 1839 provides that it shall be lawful for the appropriate Govt. to issue orders prohibiting the levy of haqqs and fees of every description, and customs, whether by land or sea, enjoyed by holders of rent free lands or other persons, and of alienated shares of any item of revenue after the abolition or relinquishment thereof by Govt. From the Resolution of the Govt. dated 22nd April 1839 (R.D.Vol. 1073 of 1839 p.49), it appears, that under th Act, Govt. has taken power to prohibit levy of hucks and fees such as on trade whether by land or sea or alienated share of any item of revenue and no other. It was held in Fenali V. Mahomed, 7 Bom.L.R. 798, that Laks of Sukhdi & Rajgi do not fall within the purview of the notification, issued under sec. 1 of the Act. It was also held that the right of a Jahagirdar to demand fees from persons using a certain market site belonging to his cannot be prohibited by a notfication under sec. 1 of this Act. (pl.see R.L.A's opinion in Vol. A 2(1874) p.1-32). Sec. 1 of the Bombay Haqqa Prohibition Aer relates to the prohibition of the levy of haqqs which are abolished or relinquished by Govt. Unless there is anything to shew that the haqqa were being levied by Govt. themselves and are now abolished or relinquished, section 1 will not apply (pl.see R.L. opinion No.1962, dated 21.2.1939). There is nothing to show that the levy of one maund of paddy by the shiletridars* was levied by Govt. before and is now abolished or relinquished to them. Consequently it was not be legally feasible to prohibit the said levy by

* in the Kolaba District from the khatedars...

issue of a notification under sec. 1 of the Bom. Haqqa Kuhmk Prohibition Act, 1939, as proposed in R.D. note at pp.37-38 ante. In the circumstances the best course would be to liquidate this haq by passing suitable legislation in the matter.

A-Ce.

M.V.V.
30/5.

Legal Department.

The point is concluded by H.L.A's opinion No.1962, dated the 21st February 1939. The levy of one maund of paddy appears to be an incident of the Shiletri tenure and has been held to be an interest in land. It is not in the nature of baqqa which fall within the scope of the Bombay Baqq Prohibition Act, 1939. The question of acquiring or dealing with this levy will from part of the Khar Lands Bill which is under consideration.

Sd/- J.R. Dhurandhar,
4.8

Additional Secretary to Government.

U.R. to R.D. No.7352, dated the 5th August 1948.

4-Cs.

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